

Message Text

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ORIGIN L-02

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FM SECSTATE WASHDC

TO AMEMBASSY BERN PRIORITY

INFO AMEMBASSY SAIGON

AMEMBASSY PARIS

USDEL JEC PARIS

USMISSION USUN NEW YORK

USMISSION GENEVA

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TAGS: PARM, ICRC, UN, US, SZ, PFOR

SUBJECT: "PRG" ISSUE AT LAW OF WAR CONFERENCE

REF: STATE 277249; BERN 4662

1. WE HAVE SEARCHED OUR RECORDS FOR CLEAR PRECEDENTS THAT, UNDER SIMILAR SITUATION AS THAT WHICH WILL FACE LAW OF WAR CONFERENCE CHAIRMAN, A TWO-THIRDS VOTE WOULD BE REQUIRED. SEARCH HAS BORNE ONLY MEAGER FRUIT. WE EXPECT THAT PRECECENT IS SO MEAGER BECAUSE UNGA WHICH CONTAINS MAIN BODY OF PRECEDENT THAT IS EASY TO RESEARCH, BEGINS A NEW
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SELF-SUFFICIENT SESSION EACH YEAR AND DOES NOT CARRY OVER

IN WAY THAT SINGLE CONFERENCE HAS CARRY-OVER BETWEEN SESSIONS. NONETHELESS, IF YOU THINK IT WOULD BE HELPFUL, YOU CAN BRING FOLLOWING TO ATTENTION OF FRANCOIS PICTET OF FEDERAL POLITICAL DEPARTMENT.

2. WE REVIEWED UNGA RECORDS FOR LAST FIVE YEARS AND FOUND ONLY ONE CLEAR INSTANCE WHERE IT WAS RULED BY A COMMITTEE CHAIRMAN THAT AFTER AN ISSUE REQUIRING ONLY A SIMPLE MAJORITY VOTE WAS DECIDED IT THEN, DURING THE SAME SESSION, REQUIRED A TWO-THIRDS VOTE TO REVERSE IT IN SUBSTANCE. AT THE 26TH GA, IN THE FIFTH COMMITTEE (A/C.5/SR.1477, 12/9/71), THERE WERE THREE PROPOSALS TO BE VOTED UPON CONCERNING THE

ESTABLISHMENT OF THE POST OF DISASTER RELIEF COORDINATOR:

- (1) APPROVAL OF INCLUSION OF NEW POST IN MANNING TABLE
- (2) DECISION THAT COORDINATOR SHOULD HAVE RANK OF UNDER-SYG (3) DECISION THAT FUNCTIONS OF COORDINATOR

SHOULD BE ASSUMED BY AN UNDER-SYG ALREADY IN OFFICE. AFTER THE FIRST TWO PROPOSALS WERE ADOPTED, THE CHAIRMAN (SANU, NIGERIA) STATED THAT SINCE THE COMMITTEE HAD DECIDED BY THE FIRST VOTE TO CREATE A NEW POST, THE THIRD PROPOSAL WOULD NOT HAVE TO BE PUT TO THE VOTE. AFTER DISCUSSION AS TO WHAT EACH OF THE PROPOSALS MEANT AND WHETHER A VOTE ON THE THIRD WOULD CONSTITUTE RECONSIDERATION, THE CHAIRMAN ASKED THE COMMITTEE TO INDICATE, IN ACCORDANCE WITH RULE 124, IF IT WISHED TO VOTE ON THE QUESTION OF WHETHER THE SYG SHOULD APPOINT AN UNDER-SYG ALREADY ON THE STAFF. THE PROPOSAL WAS THEN REJECTED, HAVING FAILED TO OBTAIN THE REQUIRED TWO-THIRDS MAJORITY.

3. AS A SECOND MATTER, WE REVIEWED RECORDS OF CONFERENCES WHICH HAD MORE THAN ONE SESSION TO TRY TO FIND EXAMPLES OF SITUATION WHERE A MATTER REQUIRING A SIMPLE MAJORITY VOTE WAS DECIDED AT ONE SESSION AND THEN A TWO-THIRDS VOTE AT A SUBSEQUENT SESSION WAS REQUIRED TO REVERSE THE EARLIER DECISION. ONLY EXAMPLE THAT APPROACHED WHAT WE WERE LOOKING FOR COMES FROM VIENNA CONFERENCE ON LAW OF TREATIES. U.S.S.R. SUBMITTED AMENDMENT TO ARTICLE 17 OF DRAFT CONFIDENTIAL

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VENTION LAW OF TREATIES AT FIRST SESSION. AMENDMENT WAS REJECTED BY 48 VOTES TO 28, WITH 8 ABSTENTIONS (PARA. 182J. REPORT OF COMMITTEE OF WHOLE). AT SECOND SESSION U.S.S.R. CIRCULATED MEMORANDUM ON TOPIC TO PLENARY. MEMORANDUM CLOSED WITH AMENDMENT TO ARTICLE 17 TO SAME EFFECT AS THAT REJECTED AT FIRST SESSION. (OFFICIAL RECORDS, DOC. OF CONF. PP. 265-266). AMENDMENT WAS ADOPTED BY PLENARY BY 49 VOTES TO 21, WITH 30 ABSTENTIONS.

(OFFICIAL RECORDS, 2ND SESS. P. 35). THIS WAS A TWO-THIRDS MAJORITY. UNFORTUNATELY, HOWEVER, THERE WAS NO DISCUSSION OR RULING ON WHAT VOTING MAJORITY WAS REQUIRED. KISSINGER

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